

PT 98-79

Tax Type: PROPERTY TAX
Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

ST. GEORGE'S EPISCOPAL CHURCH)		
Applicant)	Docket #	95-67-135
)		
v.)	Parcel Index #	05 092870
)		
THE DEPARTMENT OF REVENUE)	Barbara S. Rowe	
OF THE STATE OF ILLINOIS)	Administrative Law Judge	

RECOMMENDATION FOR DISPOSITION

Appearances: James R. Kalish, Jennings, Jacknewitz & Schrader, P.C. for St. George's Episcopal Church.

Synopsis:

The hearing in this matter was held at Illinois Department of Transportation Offices, Collinsville, Illinois, on December 12, 1997, to determine whether or not Monroe County Parcel Index No. 05 092870 qualified for exemption during the 1995 assessment year.

Charles Todd, Administrator of the Toddhall Retreat and Conference Center; John Reichert, caretaker/maintenance person for Toddhall Retreat and Conference Center; and Mrs. Pat Brock, member of Episcopal Church Women of St. George's Episcopal Church were present and testified on behalf of the applicant.

The issues in this matter include, first, whether St. George's Episcopal Church (hereinafter referred to as the "Applicant") was the owner of the parcel during the 1995 assessment year; secondly, whether the applicant is a religious organization; and lastly, whether

the portions of the parcel at issue were used by the applicant for religious purposes during the 1995 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned the parcel during the 1995 year. It is also determined that the applicant is a religious organization. Finally, it is determined that the applicant did not use the portions of the parcel at issue for religious purposes during the 1995 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Department that a part of Monroe County Parcel Index No. 05 092870 did not qualify for a property tax exemption for the 1995 assessment year was established by the admission into evidence of Dept.'s Ex. Nos. 1 through 5. (Tr. p. 16)

2. On September 23, 1996, the Department received a property tax exemption application from the Monroe County Board of Review for Permanent Parcel Index No. 05 092870. The applicant had submitted the request and the board recommended granting a full year exemption for the 1995 assessment year. The Department assigned Docket No. 95-67-135 to the application. (Dept. Grp. Ex. No. 2)

3. On June 12, 1997, the Department denied in part the requested exemption application, finding that a portion of the property was not exempt. Specifically, the Department determined that the bookstore and caretaker's cottage and proportionate amount of land were not in religious use in 1995. (Dept. Ex. No. 3)

4. The applicant timely protested the partial denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing at the Department of Transportation in Collinsville, Illinois, on December 12, 1997, was held pursuant to that request. (Dept. Ex. No. 5)

6. The applicant acquired the subject parcel by a warranty deed dated December 22, 1982. (Dept. Ex. No. 2 pp. 6-10)

7. The subject parcel contains 44 acres. Located on the parcel is the Toddhall Retreat and Conference Center. The center is wholly owned by the applicant. (Dept. Ex. No. 2

p. 5; Tr. p. 37)

8. The center is part of the ministry of the applicant. The philosophy of the center is “to acknowledge God’s calling of his people to help others develop individually in the knowledge and awareness of God through His word and to strive to:

1. Create a climate of quietness, tranquility, and relaxation.
2. Provide comfortable living quarters and wholesome food.
3. Provide a minimum of recreational facilities.
4. Maintain Christian standards in all relationships with employees, attendees, and the public.
5. Create a spiritual environment which provides the framework for renewal, self-examination, faith, and commitment.” (Dept. Ex. No. 2 p. 11)

9. I take administrative notice of the decision of the Department in Docket No. 84-67-4 that the applicant is a religious entity and that the parcel in question was used for religious purposes in 1984. (Dept. Ex. No. 2 pp. 36-40)

10. The applicant filed for a new property tax exemption for the subject parcel because a new building was constructed on the 44-acre parcel in 1995. (Dept. Ex. No. 2 p. 20; Tr. pp. 31-33)

11. Located in the new building is a religious bookstore that the Department found to be not in exempt use pursuant to its determination dated June 12, 1997. (Dept. Ex. No. 2 p. 21; Dept. Ex. No. 3)

12. The applicant opened the bookstore six or seven years ago and moved the bookstore to its present site in June 1996. The applicant sells religious books, greeting cards, craft items, and jewelry in the area. The purchase price for the items range from \$.25 to \$82.00. The store is staffed by volunteers from St. George’s Episcopal Women’s group or is run on the honor system (no sales person present). Nothing is given away free of charge. Fees are not waived or reduce according to one’s ability to pay. All proceeds are used by the St. George’s Episcopal Church Women to support their outreach programs. (Dept. Ex. No. 2 pp.28-29; Tr. pp. 33-37)

13. The bookstore encompasses an area of 12 feet by 14 feet. (Tr. p. 34)

14. The income from the bookstore for 1995 was \$2,500.00. (Dept. Ex. No.2 p. 31)

15. Also in the determination dated June 12, 1997, the Department found that the occupation of the caretaker's cottage by the caretaker in 1995 was not an exempt use of that area. (Dept. Ex. No. 3)

16. The grantors of the subject property, Mr. and Mrs. Todd, prior to the 1995 assessment year, occupied the residence of the caretaker of the property. The prior decision, Docket No. 84-67-4, regarding the subject property gave an exemption to the caretaker area that was occupied by the Todds. The decision specifically found that the occupation by the Todds of the caretaker area "was reasonably necessary for the accomplishment and fulfillment of the religious objectives of the Applicant, as well as the efficient administration of the Applicant." (Dept. Ex. No. 2 p. 40)

17. The caretaker's agreement states that the caretaker must live on the premises because of potential problems on the site or with retreatants. (Plaintiff's Ex. No. 1)

18. One of the potential problems enumerated has to do with the lack of telephones in the individual rooms of the retreat center. There are pay telephones in the meeting rooms. The caretaker has a telephone in his residence. Sometimes the applicant would reimburse the caretaker for telephone calls. (Tr. pp. 38, 47)

19. The caretaker is the only person regularly on the property in the evening hours. (Tr. p. 29)

20. The applicant compensated the caretaker for work hours shown on a daily work sheet. The caretaker paid no rent. (Plaintiff's Ex. No. 2)

21. The caretaker that occupied the residence in 1995 was also employed as a steelworker five days a week. (Tr. p. 46)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the

State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40. That portion of the statutes exempts certain property from taxation in part as follows:

§ 15-40. Religious purposes, orphanages or school and religious purposes. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution, or denomination requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

In The People v. Deutsche Gemeinde, 249 Ill. 132 the Court stated:

Unless facts are stated from which it can be seen that the use is religious or a school use in the sense in which the term is used in the constitution the application should be denied. The words used in the constitution are to be taken in their ordinary acceptation and under the rule of strict construction, which excludes all purposes not within the contemplation of the framers of that instrument. While religion, in its broadest sense, includes all forms and phases of belief in existence of superior beings capable of exercising power over the human race, yet in the common understanding and in its application to the people of this State it means the formal recognition of God as members of societies and associations. As applied to the uses of property, a religious purpose means a use of such property by a religious society or body of persons as a stated place for

public worship, Sunday schools and religious instruction.

Although the applicant asserts that the caretaker/maintenance man is as necessary to the operation in 1995 as the Todds were in 1984, that statement is not supported by the facts. The Todds were the owners of the property prior to the acquisition by the applicant. As a matter of fact, the property was gifted to the applicant by the Todds as part of a vision they had to convert their estate to a conference center that would reach out beyond denominational lines. Mr. Todd is still the administrator of the retreat center and as such responsible for the religious activities held on the subject property.

It was not established that the caretaker/maintenance man in 1995 conducted any religious activities in the residence, nor was it established that his presence was reasonably necessary for the accomplishment and fulfillment of the religious objectives of the applicant. In fact, the maintenance worker also had full time employment as a steelworker in 1995. While it was a convenience for the maintenance man/caretaker to be available if a problem arose, that is not the criteria for an exemption of such an area. Residences, when an applicant is asking for an exemption affiliated with the religious exemption, do not normally qualify for a property tax exemption unless it is shown that the residential property is held or used for religious purposes. Evangelical Alliance Mission v. Department of Revenue, 164 Ill.App.3d 431 (2nd Dist. 1987), Lutheran Child and Family Services of Illinois v. Department of Revenue, 160 Ill.App.3d 420 (2nd Dist. 1987). The court in Benedictine Sisters v. Dep't of Revenue, 155 Ill.App.3d 325 (2nd Dist. 1987) discussed in detail why caretaker's residences do not usually qualify for exemption. *Id.* at 330-331.

I find the facts at issue regarding the residence of the caretaker/maintenance man are very similar to the facts regarding the issue of exemption for the residence of the site manager in Girl Scouts of DuPage County Council, Inc. v. Department of Revenue, 189 Ill.App.3d 858 (2nd Dist. 1989). In Girl Scouts, the Appellate Court found that the residence did not qualify for a property tax exemption. The site manager did not pay rent. His duties included patrolling the camp, repairing equipment, dispensing keys and equipment, and checking on groups that used the

camp. He was the person that the campers were instructed to contact in case of emergency. The Court found that his residence did not qualify for exemption as the portion used as a residence was not used in furtherance of the organization's exempt purposes and the employee did not perform his duties in furtherance of the camp's exempt purposes.

I find that the area where the caretaker resided on the subject parcel, as well as the corresponding land, does not qualify for a property tax exemption for the 1995 assessment year.

Regarding the bookstore area, the Illinois courts have, pursuant to the language of the above statute, repeatedly held that if a parcel of land is used for a profit, it does not qualify for a property tax exemption, regardless how the profits are used. People ex. Rel. Baldwin v. Jessamine Withers Home, 312 Ill. 136 (1924), Village of Oak Park v. Rosewell, 115 Ill.App.3d497 (1st Dist. 1983), Salvation Army v. Department of Revenue, 170 Ill.App.3d 336 (2nd Dist. 1988). The applicant made a profit of \$2,500.00 from the bookstore during the 1995 assessment year. I also find that the area occupied by the bookstore and the corresponding amount of land does not qualify for a property tax exemption for the 1995 assessment year.

It is therefore recommended that the area of the building occupied by the bookstore and the caretaker's cottage and a proportionate amount of land of Monroe County Parcel Index No. 05 092870 remain on the tax rolls for the 1995 year and be assessed to the applicant, the owner thereof.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
October 14, 1998